

LAKE COUNTY PLANNING BOARD
October 12, 2011
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Harlan Gipe (to 8:55), Steve Rosso, John Fleming, Janet Camel, Brad Trosper, Jerry d'Aquin

STAFF PRESENT: Joel Nelson, LaDana Hintz, Robert Costa, Karl Smithback, Lita Fonda

Bob Kormann called the meeting to order at 7:03pm.

Motion by Steve Rosso, and seconded by Jerry d'Aquin, to approve the Sept. 14, 2011 meeting minutes. Motion carried, 6 in favor (Bob Kormann, Harlan Gipe, Steve Rosso, John Fleming, Janet Camel, Jerry d'Aquin) and one abstention (Brad Trosper).

LAKESHORE REGULATIONS UPDATE – DEFINITIONS SECTION

Bob confirmed with Joel Nelson that the format tonight would allow the attendees to chime in. Three people were in attendance from the public: Hugh Corn, John Snyder and Mike Wilson. Joel Nelson presented the staff packet. (See attachments to minutes in the October 2011 meeting file for staff packet.) He introduced the section on definitions that was scheduled for tonight.

Joel suggested the Board start out with the definitions of lake, lakeshore and lakeshore protection zone. 'Lake' was in the statute and listed 3 lakes. In the next section it allowed for change in this, where the lakes covered could be 20 acres or more in area. So far, a change was not proposed. The lakes that might be affected were Horseshoe Lake and Loon Lake. Everything else was a reservoir. John S checked that if they weren't defined as a lake, they wouldn't be regulated as lakeshore. Joel affirmed. Jerry asked if dropping the size was something they wanted to do. Joel noted it was brought up early in the updates. No one had really given the Planning Staff direction. Staff also discussed it several years ago when someone was constructing a bridge across a portion of one of the lakes. There hadn't been more recent activity. He talked more about the definitions of lake, lakebed, lakeshore and lakeshore protection zone. Jerry said wetlands had been added here. Did the State [definition] have wetlands? Joel answered no. Steve brought up the mean annual high water elevation. The word 'annual' was left out where lakeshore was discussed. He referred also to the notes from Tiffany. Joel thought that was from state law. He agreed that they should add that. He noted letters of comment were received, including from former staff member Tiffany Lyden.

Jerry moved on to lakeshore protection zone. He agreed wetlands should be included. He thought the wording should be changed from 'this area shall include' to 'this area shall specifically include'. It wasn't intuitively obvious that the edge of the lake should include the wetlands. Steve asked if it would go 20' up onto the dry land beyond the edge of the wetland. Right now, a line was drawn called the mean annual high water line and you went 20' towards the dry land back. So now would this go from the edge of the wetland? Joel thought you'd go to the 20' and then beyond the 20' where there were wetlands, unless the wetlands included lake that was elevation of the high water line of the lake. You'd have 2 scenarios. You'd have adjacent wetlands that could be above the lake, and you'd have wetlands that were wetlands

because they were part of the lake, below the elevation. Under the first scenario, you'd be likely to go 20 feet plus any wetlands that were adjacent. In the 2nd scenario, the wetlands that were part of the lake were just part of the lake. Then you'd go 20 feet beyond that. Steve suggested this could be clearer, through wording or an illustration. John F checked that the purpose here was to keep people from building in places where they shouldn't. Joel said it seemed like wetlands were an integral part of the lake, so the regulations should extend to wetlands. John F asked what would happen if someone said the water came from up above, from a spring. Joel said adjacent wetlands could go quite a ways.

John S said if you flew over the upstream side of Swan Lake in the spring, you would see the entire southern end looked like a 6-foot wide sandbar, with the whole wildlife refuge under water. Jerry noted some areas were part of the lake during high water. Was that part of the lake? He read from the definition of wetlands that was already in there. If it was adjacent to the river, wasn't that covered by the Conservation District or somebody else? Joel asked if it was clear enough they weren't talking about the lower part of the lake. He thought they could try to be clearer. Jerry asked if they flew to the south side of Swan Lake when the Johnson Creek and Swan Lake floodplain map LiDAR was taken. Was there a recent map that was already available or obtainable, that showed elevation and a photograph of the wetlands? Joel said it did go that far. That gave some direction as to some things that needed to be worked upon.

Janet commented on the definition for lakeshore protection zone. This was called the lake, the lakebed and the lakeshore. A footnote was needed that [the County] didn't have jurisdiction over the south half of Flathead Lake. Joel noted this was in other sections of the regulations. Janet thought it should be part of the definitions, too. LaDana said the Tribal regulations and the County regulations under lakeshore protection don't distinguish that. Joel said they just didn't have jurisdiction over some parts of the lakeshore protection zone on the reservation. Janet agreed. She thought they needed to exclude the south half of Flathead Lake and lakebed under the definition of lake. But then, that might confuse people, and they wouldn't understand that you were exerting jurisdiction over the lakeshore on the south half of Flathead Lake. Joel understood; this wasn't the jurisdiction part of the regulations. Janet noted the definition of lake included which lakes were governed by the regulations. She thought it needed to be clarified there also. Steve said she was talking about the definition of lake. Janet pointed out when you got to lakeshore protection zone, you said lake, lakebed and lakeshore. When you defined lake, she thought the south half of Flathead Lake and the lakebed should be excluded. Joel suggested a footnote. Janet thought that would be fine, too. You could say 'governed by CS&KT'.

LaDana referred to the Flathead County lakeshore protection regulations. Under lakeshore protection zone it said where a shoreline was irregular or erratic or a channel or gorge of a lake [inaudible] landward, the lakeshore protection zone shall correspondingly follow these irregularities. She asked if this was what they were trying to get at with the wetlands. Joel thought the intent of why it spoke to wetlands was to deal with the situation where you did have water inundating because of the water elevation, and to specify that it wasn't just where there was visible standing water. Sometimes there were wetlands because the water goes that high.

Joel bounced back to the beginning of the definitions, and commenced going through the draft. On the various boat definitions, Bob asked if jet skis were classified as boats or if some of the

language should be changed to watercraft. Joel replied he would interpret a jet ski to be a form of a boat for the purposes of these regulations. He referred to LaDana's comment that they could clarify that boats and watercraft were synonymous. Would this include canoes, kayaks and toy boats? Steve suggested using the term 'personal watercraft'. Janet asked if they would want to say motorized watercraft. LaDana asked about boat houses for canoes, and someone asked about sailboats. Joel replied that the word boat said it was for watercraft or things you'd use on the lake, or lake-related recreational [inaudible]. John S suggested watercraft capable of carrying one person. Joel mentioned that would include a float tube and water wings. John S agreed. Joel suggested a definition of carrying a person fully above the water. The Board murmured mild disagreement. Steve thought they could list a variety of types of boats, and then add a statement about any other that might be included. Janet refined that to 'including but not limited to'. Someone suggested leaving out water wings, and Joel agreed.

Mike W asked about airplanes, and hangars as boat houses. Steve described one near Rollins that looked like a boat ramp, but was an airplane ramp. There was no road to it. The plane on its pontoons pulled up onto a concrete pad. They didn't call it a boat ramp, but it should probably be regulated as one. Joel thought it would be considered a boat house. It was okay whether it was a floating boat or a floating airplane. Janet suggested it be simpler to say 'that' instead of 'the purpose being'. Mike W suggested 'for'. Joel said that would work as long as it was clear that those words 'for launching or retrieving boats' applied to everything in the start of the sentence. [Editor's note: This language appears in definitions for Boat Ramp and for Boat Rail System.] Jerry thought the word 'amphibian' should be considered, given the Duck vehicle across the river. There were also amphibian planes. People clarified that the Duck was also known as the Happy Hippo.

Bob referred to Tiffany's [written] comments where she wasn't sure about the word 'wire'. Joel thought that came from Missoula County. He'd seen those, where there was a mesh structure. Jerry assumed it meant the same as in World War II when airports were set up in pastures. Hugh Corn said this was called marsten matting. Janet asked if they wanted to add the word 'mesh' to clarify as wire mesh. John S mentioned stamped steel. He'd seen those but not wire ones. He wondered if Tiffany thought wire didn't work.

Jerry thought it should just be left as a hard surface. Others murmured agreement. Mike W noted there were boat ramps that weren't really constructed. Either it was gravel or dirt, and went right into the lakeshore. The word 'facility' implied something was built there. Just driving on something and rutting it up or packing it down made a route for stormwater to run into the lake so it should be something that should be addressed. It wasn't something that was 'built'. Janet said you could take facility out. You could say a pad or other hard surface similar to a driveway or roadway. Some driveways were just hard dirt too. Mike W said once native ground got driven on a few times it got packed to the point where it was impervious for stormwater anyway. That was a route. They talked about this when they talked about trails and paths. He thought 'facility' would lend itself to arguments where someone would say they hadn't built anything. Bob suggested saying a surface consisting of a pad or hard surface similar to a driveway or roadway. Others agreed. Karl thought it was more important to specify the purpose rather than list the possible materials it could be made of. John S suggested you could say across the lakeshore into the lake for launching or retrieving boats.

Steve mentioned 'improved surface' as a possibility. It got used for roadways and driveways where someone had done something. Steve liked the idea of a place where people were launching boats, no matter what the surface or development was. You couldn't just launch boats anywhere you wanted around the lake. Joel remarked on some gravel beaches that happened to be County strips that were used for launching boats and equipment all the time. Steve said the other issue was that you didn't want to restrict people who carried their kayak onto the beach and launched. Boats were launched there but it wasn't called a boat ramp. If the definition of boats included kayaks and canoes, you didn't want to have people of guilty of violating regulations by hand-launching a 40-pound kayak from a beach. Joel asked if this would be launching and retrieving boats with trailers. John F thought if they said an improved hard surface they would be okay, as long as the part for launching or retrieving boats [was there]. LaDana repeated Mike's comment, that sometimes they weren't improved. You drove over it a bunch of times and packed it down and it became your launch. You never improved it. John S liked what was said about launching and retrieving trailer boats. Joel said that was generally what a boat ramp was for. Steve thought that would cover what they wanted to regulate here. Karl asked if they needed to consider a reasonable width, so people wouldn't say it wasn't for trailering a boat to, but it just happened to be wide enough to do so. For a kayak, would they propose something wide enough to get a truck down there? John S thought that would be under the rule. Joel mentioned the standards for a boat ramp.

Joel broached the boat shelter definition. This was different than a boat house because it had fewer enclosed walls. John S said that later in the regulations, a statement said no covered dock was allowed. There was no definition for a covered dock. Were they talking about a boat shelter? To him, the definition of a boat shelter was a covered dock. Or were they talking about the difference between a covered dock and a covered slip? They needed to say what these things meant. What was intended? Joel said the way he read it, it would be over the slip that would be shelter for boats. John S asked if they could get a definition for covered docks. Steve interpreted that as you couldn't put indoor/outdoor carpeting over the top of your dock. John S hadn't thought about that.

John F asked why they were adding that a breakwater adjoining a shelter was not considered part of the wall. Was this because we didn't want the breakwater to be part of the boat shelter? Joel pointed out the note that this was revised to be similar to Flathead County and Missoula County. He didn't know why those counties did that. Janet thought that when they enclosed it, the breakwater extension couldn't be included so they were only enclosing in 10%. Brad noted that in Tiffany's comments, she said the wall area. John S said they were talking about 2 different things. The breakwater usually extended from a few inches above the water line to below the water line, because you wanted to break the wave action. Steve thought some people built docks and put on a breakwater. The batter boards actually extended above the surface of the dock 2 or 3 feet, sort of as a fence or wall to keep kids from falling into the water. If that wall was built as part of a breakwater, it shouldn't be included in the 10% if there happened to be a boat slip next to it. He thought you should still allow people to have that little fence or railing or wall there, and not turn it into something else.

Joel moved on to the definition of breakwater. Steve thought the definition should be expanded to make it different from a retaining wall. A breakwater was different in that it wasn't at the shoreline. It was out in the water. It isolated a section of water from wave action, to protect a boat mooring area or something like that. John S said that based on what Steve was saying, there might be a structure designed to protect an area from wave action. The area could be either shoreline or in the water. Was that what Steve wanted to say? Steve thought that was an improvement. Brad checked that Steve was saying it was a structure between the shoreline and the open water parallel to the shoreline. Steve said it wasn't always parallel to the shoreline. He gave the example of an L-dock. They often put the batter boards on the wing of the dock, and also down along the part of the dock that was perpendicular to the shoreline. There were regulations on how far they could bring that wall back to the shoreline. They did run some of that breakwater structure on part of the dock that was perpendicular to the shoreline. The breakwater was out in the water to isolate a mooring area of the lake from wave action. Jerry checked that didn't it protect the dock from wave action. Steve said it didn't. John S mentioned devices that hung from docks, wave attenuators. Janet noted that if you used the wording of generally parallel to the shoreline, as Tiffany suggested, then it didn't always have to parallel to the shoreline. It generally was. Then you got into the next definition, breakwater portion of a dock. Steve thought that was an issue too. Janet asked if you said a structure out in the water designed to protect an area from wave action generally parallel to the shoreline, did that combine Steve's comments.

Joel said the main use of the term was for measurement of the dock, for the part that cuts parallel to the shoreline. Steve thought they needed to describe the dock in terms of the pier section of the dock and then as the wing section of the dock, rather than describing sections of the dock as breakwater. John S disagreed somewhat. Wave attenuation was based on the depth of the water and the width, so you could have something just down 3 inches, and if it were wide enough, there would be significant 30% wave attenuation. Steve checked that these were floating docks on Swan that sat on the water. On Flathead Lake, they were up on pilings, so there was 2 or 3 feet of air between the top of the water and the dock, with no breakwater portion. John S agreed that Steve was correct. In Flathead County, they said the breakwater portion, because there were a lot of floating docks that were F-docks, and also non-floating. When they had that, they defined the outermost portion that was roughly parallel to shore as the breakwater, and they defined the next ones as wings. In the industry sometimes they call them wings, but more often they call them fingers. When there was more than one, what would you call them? Mike said you could put a breakwater on just a single straight linear dock with no wing at all. Steve noted on the Great Lakes they often surrounded a marina area with breakwater. They were just vertical pilings or vertical steel. It wasn't attached to anything. The dock was built inside the breakwater. John S didn't think 'roughly parallel to the shoreline' worked for a breakwater.

Joel referred to the dock section of the regulations that the group worked upon a little over a year ago. It talked about the breakwater portion of a dock. In his notes, it said 'wing' right above 'portion of the dock'. It talked about being reasonably parallel to the shoreline, and it talked about solid section of the breakwater portion of a solid or partially open dock. Then it talked about the breakwater baffle boards. He thought they needed to be clear about what they were trying to regulate with regards to the wings and the solid portions of the baffle boards. Steve suggested separating those. John S read from the last sentence from the breakwater portion of a

dock definition. Currently it didn't include the main dock stem. Right now, you allowed 25% up to a maximum length parallel to the shoreline to a maximum of 30 feet. With the new regulations, including the main dock stem, if that's 8 feet wide, we've increased that to 38 feet. He didn't know what they wanted to do. On the floating docks for Lake Mary Ronan and Swan Lake, he didn't think they needed to make that portion of the dock wider. He thought it should be explicitly discussed. They were increasing the length by 8 feet. Did they really want to do that? Steve said Tiffany raised the point of being consistent in whether or not they were including the dock stem in the measurement of that outermost wing. Referring to the width, Steve said if you were going to put a breakwater in the water and expected it to protect from the 2- or 3-foot occasional heavy waves, you wanted some width to the wing to avoid damaging that wing to brace the breakwater properly. It boiled down to describing the dimensions and shape of the dock separately from the breakwater.

Steve wasn't sure they needed a definition for the breakwater portion of the dock. If they did, he suggested that it be that any portion of the dock that had boards or other rigid material placed vertically into the water for the purpose of reducing wave action. Bob referred to putting the boards horizontal at low water. Steve said you were building a vertical wall down into the water. Bob described that if the boards were horizontal, you could maximize materials. Steve explained that his idea was you were still putting the boards in vertically, on a vertical rather than flat surface.

Bob observed that there were 59 items or definitions left. If they took 5 minutes on each, it would take 5 hours. He suggested that instead of trying to come up with new wording, if they could give the planners the idea of it, the planners could then take care of it. Joel encouraged people to email him draft wording if they had some to offer.

Jerry noted that with docks, they didn't have references to businesses. Several restaurants had their own docks. Steve said they did include marinas in here. Jerry asked if docks such as that at the Raven was a dock or a marina. Steve said that Tiffany brought up the term 'public use dock' in the regulations. Public use dock needed to be defined too. That whole thing needed to be looked at to make sure the definitions pertained to the way the terms were used in the document. Bob mentioned the Salish also had a dock. LaDana thought the common use dock was intended more for a group like a homeowners association. Karl said the Salish would be covered. It was a legal entity and the dock was exclusively for the personal use of the owners. People disagreed, in that it was for the public. LaDana clarified that the business had it, and they were letting someone use their dock. John S thought they'd talked about that last year, and Tiffany's points were right on. Instead of saying common use dock, say common use dock/ private marina. They could say public dock/ commercial marina. Joel said that once they had a full set of regulations, they would have a better context to work with. LaDana highlighted that with some of the terms that were being used, they were trying to be consistent with the other jurisdictions so everyone wasn't just using their own terms. The common use dock definition came from the Tribal regulations.

Joel continued through the definitions section. Janet asked if a definition for covered docks would be added. Joel confirmed. John S asked when that might happen. Joel replied in the next

draft of the regulations. They would probably do a couple more new individual sections, and then they would have a full set to work on.

On the definition of deck, Steve asked if this was just over land. A deck was a lot like a dock, except it was over land instead of over water. Joel said the current regulations did not allow decks over the water. That's where they could say if a dock was over 8 feet wide, it was actually a deck. It was an interpretation and policy thing. Typically, he agreed with him about a deck. John S asked for clarification. Joel clarified that this was the interpretation of the regulations. It wasn't defined. Steve said the regulations for decks said they couldn't be over water.

Joel brought up the dock length definition. John S said this definition created a very difficult situation for a lot of areas on Swan Lake. He explained there were some areas, especially close to the outlet across from Kootenai Lodge, where it was almost flat. At high water it was 2 feet down. Typically in July, they might have to go out through what used to be lake bottom for 120 or 130 feet to get to the lake. If you define a dock length as the area that extended lakeward from mean high water elevation to the furthest end of the dock, you'd never be able to have a dock. What people did was to have a floating dock with 10- or 15- foot gangway going from the floating portion. As the water went out, they moved it out. A lot of people had 50- foot docks that they kept moving out. It was very common. That was the extreme case, and there was everything in between. By the village of Swan Lake, there was a steep bank there. They could have a 6-foot gangway from the shore to the lake, and that was good forever even though the lake went up and down 4.5 feet on an average year. The Flathead County Conservation District discussed this 5 or 6 years ago. They said the length was that portion of the dock which extended from the shoreline out. On fixed docks on Flathead Lake, there were periods of time when the dock wasn't in the water. During the season, pool comes up and they have docks. In Swan Lake, in calm years they were very close to low water by the time August begins. People wanted to be able to access the water during August. Those were the best 2 weeks of the season. He would like to see the definition take this into account. His own dock was fixed, with a gangway fixed on the shoreline. At high water, he had 75 feet. At low water, his dock was about 55', with about 3 feet of depth at the end of the dock. It was just enough for his boat to come in and hook. He wasn't sure what to do, but they needed to address the fact that the definition of the dock from mean annual high water didn't seem to work effectively.

Steve asked if the allowance for variance if the water wasn't deep enough when you got out 50 or 60 feet was sufficient for the people with the conditions that John S described. John S didn't think that solved the problem. They were defining the length of the dock. He felt the length of the dock was what was in the water. He referred to recent applications and measurements. He would like to see the dock measured from the shoreline out. Joel noted some differences with Flathead Lake, where you might not want those things to apply. Jerry asked if they should do the regulations by lake. Swan Lake was such an aberration from the average lake. Conversation broke out. Steve thought when you defined a dock, the dock length was the length of the dock over the water, whether you measured that in mean annual high pool or the current shoreline. Joel suggested the length of the structure itself. Steve thought the regulations should handle that.

John F thought what they shouldn't do is add 'and is measured from'. He read the definition as the length of that portion of the dock which extended lakeward at any time over water. Why

were they trying to put a length on it in the definitions? Hugh Corn agreed. He thought the length of the dock should be measured from one end to the other. Joel suggested an example with a fixed dock on Flathead Lake where the walkway extended to the house. Where did the dock end and the walkway begin? [Hugh C] said it did depend on what you were measuring. You needed to know where to start and stop the measuring.

Steve thought they wanted to protect navigation in the lake. For example in Flathead Lake in Elmo Bay, where it was very flat, you didn't want people to say they wanted to use their dock in Feb/ March, so they needed a very long dock. It worked in Flathead Lake because people used their docks in the summer and they accepted that their dock would be high and dry when the water is out. The problem was that in Swan Lake, the water went down when it's still summertime. He didn't think they needed a whole other set of regulations for each lake, but they could handle a small portion that might need to be handled differently within that portion. John S referred to Hugh's comment: the length of that portion of the dock which extended lakeward over water, at any time. On fixed docks on Flathead Lake, the docks were over water at any time. Steve pointed out those docks were over dry land in the winter. John S said at some time, they were over water. He would interpret it as a dock that was over water at any time. At some time of the year, it was over water. At Swan Lake, if you were over water, and then the water went down and you pushed your dock out, you were still over water. Steve supposed that was okay for a moving dock. For a permanent dock, someone would build a 150-foot long dock.

For dock wings, Janet asked if 'or "finger"' should be added, since there was comment that the literature addressed a wing as a finger. Steve thought the main function of these was to create a boat slip or a place to moor boats. Its function could be to attach breakwater. John S asked if they needed to put anything in there, and read the first portion. Brad suggested striking 'main'. Steve thought the rest should be taken out, particularly the breakwater part. John S thought it should read 'portions' instead of 'portion'.

Joel continued through the definitions to dwelling. Jerry asked for clarification on attached portions of the structure. Joel said these were considered part of the dwelling unit. Steve checked that if a building was close to the lakeshore protection zone, roof and deck could not extend over into the lakeshore protection zone. Janet suggested taking out the part about 'which are essentially land based within the lakeshore protection zone'. Joel said they weren't addressing houseboats. Janet and Steve suggested taking out 'within the lakeshore protection zone' instead.

On fill, Joel relayed Tiffany's suggestion to replace 'man' with 'human'. He thought something about 'or machinery' could be added.

For floating structures, Joel thought this was probably used only in other definitions. Karl said they drafted something that addressed floating trampolines and things of that nature, and mentioned these should be set back from riparian areas, like docks, so those types of specifications used it. John S asked about swimming floats. He thought swimming platform was a more common term that might be better to use. Karl explained he got the definition from Lake Tahoe. He agreed with John S. Jerry noted that Swan Lake had a number of those platforms. What if you tied one of those [inaudible] and anchored it offshore? Karl said that was what they

were addressing. You couldn't have it in the middle of the lake. Steve asked if they needed to say they weren't including buoys in floating structures. Staff pointed out the definition included buoys.

Steve asked about lagoons. Joel noted the definition said artificial boat harbor created by excavating. The regulations prohibited new lagoons.

Joel outlined that lake frontage was a bit difficult to define. Staff chose to define with words [rather than sketches]. Steve suggested looking in the regulations for where the term was used, to make sure the definition worked, and that there weren't loopholes. Joel said it was usually used with impervious coverage or construction area coverage. It got confusing with large properties and with islands, because you measure from property boundary to property boundary. John S was curious about measurements on his property, and checked on how that was done. He liked going from pin to pin to pin to measure. Joel thought that made sense. He outlined that measuring shorelines was a problem with cartography in general. John F asked if they could set a standard for measurement, such as measuring every 20 feet or every 10 feet. He added or not. Joel thought they could try. For typical properties, they were saying it was a straight distance between side property lines at the water's edge. He read the last sentence in the definition, for large properties. John S didn't know if the last part was in the best interest. Hugh C asked if there was a legal shoreline in the person's deed. Joel said there was sometimes. On certain subdivision plats and on certain certificates of surveys you wouldn't have that. You wouldn't have that on aliquot descriptions or government lots. John F asked what the definition affected. You had a certain lake frontage, therefore, what—dock size? Joel said it affected certain standards. John F said maybe there should be a standard way of measuring, so people knew and weren't guessing. Joel said usually they took the frontage off the survey. If there was nothing available by survey, they did their best. They'd measure from point to point. If there was some special circumstance where there was actually a lot more shoreline because it was really irregular, [the applicants] could show how they should incorporate that in. John F checked that this didn't involve elevation. Joel confirmed. John S liked the use of the word 'may'. He gave the example of the Conservation District putting docks into rivers. They said you 'may' be allowed 25 feet. You might not get it.

Jerry asked if there was a reason not to have the high water mark definition in here. What time of the year did you measure [frontage]? Janet suggested saying at the water's edge defined by mean annual high water. Brad said there were some surveys of Flathead Lake that actually showed the property boundaries extending into the lake. Joel called it mean annual high water line. John S said the state owned everything below that. Joel said the Tribes owned this on the reservation. Off of the reservation, the private property owner took it to the low water. Steve said there were properties off the reservation that were surveyed and platted prior to the dam that had property markers out to low water. In lake frontage, maybe they did need to add mean annual high water. Bob asked if it would be worth consulting a surveyor, since they didn't seem exactly set on this definition. Joel acknowledged it was a new definition. He thought the government land office would have something that the surveyors were used to working with. He would look into this more, for whether or not they should say at high water or just say the lake. Off the reservation, the owner did own out to low water in most circumstances.

Janet suggested saying for the purposes of these regulations, measurement of typical property was a straight distance. Joel said it basically did say this. Janet said to make it what they wanted to apply so they could enforce the regulations. Steve thought they still had to have verbiage that handled exceptions, like an island where there were no property lines, or for a point of land, where the two property markers would be close together. Janet thought the second sentence would take care of that. Steve agreed the second sentence needed to be there. Maybe the idea would be to put some words there that the governing body got to decide.

Joel moved on to living quarters. Bob asked if lakeshore owners were taxed per foot owned. Jerry said it was the total value of the property. They might use footage when they calculated value. He didn't know what the footage was based on. John S said they had a regression equation, and gave a description.

Joel brought up the definition of maintenance. Jerry asked if painting and staining were included. Hadn't they eliminated that as far as docks or areas above the lakeshore protection zone? Steve said that was in the regulations. Painting and staining were things that you might do. Jerry said these were illegal. LaDana explained there were things you could paint. Joel gave the example of a grandfathered painted structure. More examples were explored. Steve said you could paint trim around window on a boat house that was painted. You couldn't paint a dock. Hugh mentioned stain. Joel said other regulations would apply over the water. Mike W thought by having it in the definitions, you implied it was okay. He suggested leaving it out, and someone should have to inquire if it was okay to paint the trim on the windows. There was a murmur of agreement. Brad asked what 'minor' meant, such as in minor replacement of boards. Was that less than 10%? Joel didn't know. Mike W asked if this was the County where you could do 25% [replacement] per year. He thought Flathead said 50% of the total value. That was a lot for maintenance. Joel said that right now, they had remodel and reconstruction, and Steve added repair. Those were definitions that were coming up. Steve said part of maintenance included restacking and repositioning of fallen rocks and other natural materials. There were places where people were not to go in and take rocks off the shoreline to make a breakwater or retaining wall. He wondered if they should allow the regulations to determine what rocks they could stack and what items they could paint. They could define maintenance as painting and restacking rocks, if those things were allowed in the regulations.

Steve thought they should think about whether or not they should take the examples out. LaDana noted that other jurisdictions, such as Missoula County and Flathead County, both have examples. Those were the same examples that Lake County had in theirs. Joel said they should make sure the examples don't conflict with what's allowed and not allowed. Jerry suggested saying 'to the extent permitted by regulations'. Steve liked that better. If painting were allowed at all in the lakeshore protection zone, the definitions should describe whether painting fell under maintenance or repair. If painting were not allowed under any conditions, it should be left out.

Joel suggested revisiting marina after more consideration of Tiffany's comments. Steve asked about marinas with common use docks, with public docks, and with commercial docks. Were those separate? Joel thought he put out a bunch of different terms from different jurisdictions to get the group thinking. LaDana said it was broken down that way in Flathead County. They had all 3 listed in there: marina, commercial or public, or private. Joel said Flathead County and

Missoula County said marina, and the Tribe said marina and there were specific types of marinas in Flathead County.

The group discussed mean annual high water elevation. Joel said this was from state law. The group discussed averages, mean averages and median averages. John S referred to mean low water elevation. There wasn't a definition. He suggested they should mimic the style of mean annual high water, with the mean lowest elevation of the lake in each of the last 5 consecutive years, excluding.... He thought if low water was used, it should be defined.

Janet said for Flathead Lake, the defined elevation should be used. That definition showed who had jurisdiction over what portion of the lake and lakeshore. It would be clearer to have the number in the regulations. Steve said there were two things going on. They needed to define where the jurisdiction took place, which might be different than where a measurement for a dock that stuck out 60 feet started. The dam operators didn't keep the water at 2893. They kept the water 3 or 4 inches below that during the summer. Brad thought Janet was saying this was a legal definition that came from the settlement of a lawsuit. The south half of Flathead Lake was under Tribal jurisdiction. Joel added this was for ownership purposes. He said [the proposed definition for the regulations] talked of mean annual high water elevation for the purposes of the regulations and standards. Janet replied that she didn't want there to be confusion for a new person who might come here and not know about Tribal jurisdiction. They would be looking at mean annual high water elevation as a definition for reading any section of the regulations. If they looked at the Tribal regulations and then looked at the County regulations, Janet was trying to make sure everything was clear. They had to look at both sets of regulations to get a dock permitted on the south half of the lake. [The elevation] was a defined definition by law on the south half of the lake. Brad and LaDana supplied the number as 2893.2. John F said that was probably not the mean high water elevation, and should be identified as the legal definition. Janet suggested they could say it had been defined by the United States Supreme Court as Joel asked if the Supreme Court said this was the mean annual high water elevation. Brad reported they said it was where the ownership changed. Janet asked how it was referenced in the Tribal regulations. LaDana read that high water mark means on Flathead Lake elevation 2893.2 feet and continued on to read about other navigable waters. Joel noted that was high water mark, which was different than mean annual high water. Steve thought they should say from the reservation boundary south. Janet explained that there was a line of latitude that defined [the boundary]. Steve wanted to be sure not to exclude the people north of the boundary. The regulations needed to work for them too. Janet thought they could say for that portion of Flathead Lake, south of the reservation boundary, 'the high water elevation is'. Steve thought the definition worked everywhere else. Janet thanked the group.

Regarding the definition for new construction, Steve asked where things would stand if someone got a permit before the new regulations went into effect but did not commence construction until after the new regulations went into effect. Joel thought the construction activities would be a vested right. He suggested adding a clause about existing permits. Permits were good for a year, with the ability for a one-year extension. He thought they'd keep the life of those permits intact. Jerry asked about the definition in the existing regulations. Joel identified the same definition as the existing definition of new construction. He thought if someone had a permit, they would be allowed to do what was in it.

Steve asked if a definition would be added for patio. Joel and LaDana thought one should be included.

Janet suggested a change regarding grammar on the definition for pier, so it would read 'and to which' instead of 'and which'. She asked if a definition for public use docks would be added, based on Tiffany's recommendation, and pump house. Joel affirmed. He said most of those would be incorporated.

John S said his understanding was someone with a nonconforming dock could replace 25% of it per year. Joel said that right now, it would probably be half of it per year. He wasn't sure what the regulations were going to say about reconstruction versus remodeling versus repairing versus maintaining nonconforming structures. He believed they hit that portion of the updates [inaudible]. They could see what the context did to it.

Janet asked what would happen if [a nonconforming structure or use] wasn't lawful prior to the amendment of the regulations. Would it be an illegal structure? John S said a lot of people didn't get permits. He estimated at least half of the docks on Swan Lake were with people who didn't get permits. Joel thought the structures to which Janet referred would be illegal. Janet asked if a definition for illegal would be added or if the definition of nonconforming structures would be changed. Joel thought zoning regulations spoke to legally existing, nonconforming structures, so they might have [inaudible]. He didn't know if something required them to define illegal. He thought nonconforming was nonconforming. He wasn't sure it mattered if it was lawful or not. Janet said it came up with discussion of billboards. Joel said they treated nonconforming structures as nonconforming. Whether or not they were legal or illegal wasn't really pertinent to the lakeshore regulations. LaDana referred to nonconforming unpermitted structures. John S said a lot of structures were conforming but the people didn't want to get a permit. Joel said these would then be nonconforming because they didn't have a permit. Janet said she was talking about something that was never permitted so it wasn't lawful to begin with. How were those being addressed? Jerry checked if [such a structure] were to be fixed, would you be able to replace 50% of it per year. Joel said if it were unlawful, you couldn't maintain it. John S thought Janet's point was a good one to address. Joel summarized this was unlawful or illegal structures. He asked if they were beyond repair. John S brought up requests for replacing pressure-treated materials in repairs. When [the definition] said utilizing the same or substantially similar materials, did that imply that people could use illegal materials? Someone suggested saying 'allowed materials' or 'regulated materials'. The materials had to be similar AND legal.

Steve commented that on retaining wall, riprap and seawall, the staff needed to go carefully through the regulations and think about where those terms were used, and make sure those definitions worked in the regulations the way they were written. They were confusing, and there were some overlaps. Joel thought they'd have to go back and revisit the stuff that Tiffany worked on.

In the definition of riparian boundary, Steve asked if natural lakeshore was defined. He thought shoreline or lakeshore was defined, and suggested using a defined term. Joel said otherwise it

would get its natural interpretation as the lakeshore that was natural. Steve said the natural lakeshore excluded previous retaining walls. You couldn't measure perpendicular to the retaining wall. You had to know what the natural shoreline was before the retaining wall went in. He didn't think that was clear.

Joel touched on the shoreline definition. John S said the shoreline and the lakeshore meant the same thing to him. Joel clarified that the lakeshore was the perimeter of the lake from mean annual high water, whereas the shoreline would be the lake, and it moved.

Jerry returned to riprap and shoreline. John F referred similarly to the end of seawall definition, [where the definition discussed what seawalls] were constructed of. He didn't think they needed that. It was in the regulations and didn't need to be in the definitions. He thought they should be consistent. Joel noted they did say rocks or other large objects in riprap.

Steve said he was concerned with the use of shore station, since it was a brand name, and suggested the use of boat hoist or some other name. He was curious what generic names the manufacturers might use for their product. John S compared it to Kleenex. It was called shore station so long, that people have forgotten it was a brand name.

For the side wall area definition, Steve asked if that term appeared in the regulations. Was this what he called a breakwater? Joel said it was.

Joel observed that if they kept the definition of Significant Period of Time, they would need to figure out what this would be. Steve suggested thinking about defining that as time to cause a measurable physical change. LaDana checked whether he'd said measurable or miserable.

Joel read the definition for structure. Steve liked it, and commented that it had to be a catch-all for things like patios that might not be mentioned.

Bob asked about [boat] slip. Should it be defined or cross-referenced to another term? Joel thought it would be good to define boat slip. Steve said it would be the area where the boat slid in between the fingers or wings.

On variances, Janet asked about the removal of the language on undue hardship. Joel clarified that the regulations would set the criteria for the granting of the variance rather than the definition. Steve checked about inclusion of Tiffany's comments on major and minor variances and design criteria. Joel affirmed inclusion.

On the waterslide definition, Steve asked if waterslides were in the regulations. Joel said something would probably be put it about them. Karl asked if they would be permittable. [Inaudible.] Joel said they would be subject to standards. Karl mentioned materials, colors and distance from the lake. People mentioned existing waterslides in various locations.

Steve asked if Christi Buffington's comments that were handed out would be included. This included definitions of erosion, fine materials and gravel. Joel said they would like to be clear

on what was fine material and course material. This would potentially happen in the definitions. He mentioned the other comments submitted.

OTHER BUSINESS

LaDana highlighted the updated waterfront living brochure. The point was to get landowners to think about installing riparian buffers on their property to improve their property and the water quality. The group touched upon discussion on vegetation, brochure distribution and a potential demonstration buffer.

Joel mentioned what was happening with Lake Mary Ronan zoning. Jerry asked about the North Lake County zoning district, and Joel responded. Citizen zoning districts were touched upon, as was the Lake County Planning and Zoning Commission.

Lita handed out letters inviting Board members who expire at the end of the year to express interest in serving an additional term.

Motion made by John Fleming, and seconded by general acclaim, to adjourn. Motion carried, all in favor. Meeting adjourned at approximately 9:35 pm.